

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ROBERT SIMS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	1:15-CV-732
)	
BB&T CORPORATION, et al.,)	
)	
Defendants.)	

ORDER

This matter is before the Court on a motion filed by the BB&T defendants to exclude opinion testimony from Dr. Gerald Buetow as to the amount of loss sustained by the Plan as a result of the defendants' alleged breaches of fiduciary duty. Doc. 299. The motion will be denied without prejudice.


First, the defendants' characterizations of Dr. Buetow's testimony do not seem to match up fully with what Dr. Buetow is saying in his report. Second, the defendants also assume that Dr. Buetow's loss calculations must prove loss amounts with certainty before they are admissible. That is not correct. The motion will therefore be denied.

Since it is possible the Court has misunderstood the defendants' arguments or Dr. Buetow's report,¹ or that there will be some additional guidance from other courts by the time of trial, this denial is without prejudice to renewal at trial.

¹ For example, the Court does not understand the motion to be directed towards the qualifications of Dr. Buetow or towards his opinions as to whether or not there was a breach.

It is **ORDERED** that the defendants' motion to exclude Dr. Buetow's opinions, Doc. 299, is **DENIED** without prejudice to renewal after Dr. Buetow completes his direct testimony at trial.

This the 26th day of June, 2018.



UNITED STATES DISTRICT JUDGE